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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

<p>REPUBLIC BAG, INC., a California Corporation; and ALPHA INDUSTRIES MANAGEMENT, INC., a Florida Corporation,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>BEAZLEY INSURANCE COMPANY, INC.,</p> <p style="text-align: right;">Defendant.</p>	<p>Case No.: 2:18-CV-6745</p> <p>JOINT RULE 16(B)/26(F) REPORT OF PLAINTIFFS REPUBLIC BAG, INC. AND ALPHA INDUSTRIES MANAGEMENT, INC., AND DEFENDANT BEAZLEY INSURANCE COMPANY, INC.</p>
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Pursuant to Federal Rules of Civil Procedure 16(b) and 26(f), Central District Local Rule 26, and this Court's Standing Order, Plaintiffs Republic Bag, Inc. ("Republic Bag") and Alpha Industries Management, Inc. ("Alpha Industries"), and Defendant Beazley Insurance Company, Inc. ("Beazley") (collectively, "the Parties") submit this Joint 16(b)/26(f) Report:

a. Statement of the Case

This is a declaratory relief action against Defendant Beazley in connection with insurance coverage for an employment lawsuit captioned *Chris Cervantes v. Republic Bag, Inc., et al.*, Case No. RIC1802922 (Riverside County 2018) (the "*Cervantes Lawsuit*").

b. Subject Matter Jurisdiction

(1) Plaintiffs' Statement Against Subject Matter Jurisdiction

As described in greater in Plaintiffs' Motion to Remand, Defendant Beazley has not met its burden to prove with legal certainty that Plaintiffs' claim exceeds the \$75,000 necessary for removal jurisdiction. This action does not seek damages. Rather, Plaintiffs seek a judicial declaration that Beazley must defend (and if necessary, indemnify) Plaintiffs in the underlying *Cervantes Lawsuit* once Plaintiffs have satisfied their self-insured retention, which Beazley asserts is \$200,000. To date, Plaintiffs have incurred \$66,002.78 in defense costs. There has been no demand made by Mr. Cervantes (and no offer by Republic Bag or Alpha Industries), let alone a settlement or judgment in the underlying *Cervantes Lawsuit*.

Furthermore, Plaintiffs dispute Defendant Beazley's claim below that the *Cervantes Lawsuit* seeks \$600,000. The *Cervantes Complaint* merely states in the demand for jury trial that the amount demanded exceeds \$25,000. While it is unclear precisely where Defendant's \$600,000 figure comes from, it appears to be

1 based on Mr. Cervantes' reduction in pay that occurred in 2011. Any claim based
2 on events occurring in 2011 is clearly time-barred.

3 Because Defendant Beazley has not, and cannot, show with legal certainty
4 that Plaintiffs' claim exceeds \$75,000 over the self-insured retention, this action
5 should be remanded to state court.

6 (2) Defendant Beazley's Statement For Subject Matter Jurisdiction

7 Subject matter jurisdiction is appropriate under 28 U.S.C. §1332(a)(2).
8 Complete diversity of citizenship exists between the Parties. The amount in
9 controversy exceeds \$75,000 insofar as Plaintiffs seek a declaration that Beazley is
10 obligated to defend and indemnify it in the *Cervantes* Lawsuit, which seeks over
11 \$600,000 from the Plaintiffs. Under applicable Ninth Circuit law, as set forth in
12 Beazley's opposition to Plaintiffs' Motion to Remand, the amount in controversy
13 in this matter significantly exceeds the jurisdictional minimum.
14

15 c. Issues

16 Plaintiffs assert that the *Cervantes* Lawsuit triggers Beazley's coverage
17 obligations, as the *Cervantes* Complaint states a Claim brought during the 2017-
18 2018 Policy Period for a Wrongful Act by the Insured Plaintiffs against an
19 Employee. Beazley has denied coverage, asserting that coverage is unavailable
20 and/or precluded pursuant to several policy terms, conditions and/or exclusions of
21 the Beazley Policy.

22 d. Parties, and Non-Party Witnesses

23 By mutual agreement, the Parties will exchange FRCP 26(a)(1) disclosures
24 on October 31, 2018.

25 e. Damages

26 This action does not seek damages. Rather, Plaintiffs seek a judicial
27 declaration that Beazley must defend (and if necessary, indemnify) Plaintiffs in
28

1 the underlying *Cervantes* Lawsuit once Plaintiffs have satisfied their self-insured
2 retention.

3 f. Insurance

4 As detailed above, this matter is a dispute with respect to insurance
5 coverage under a policy issued by Beazley to Plaintiffs.

6 g. Motions

7 As set forth in their Motion to Remand, which is scheduled to be heard on
8 October 15, 2018, Plaintiffs assert this action should be remanded to state court,
9 as Defendant has failed to meet its burden to prove Plaintiffs' claim exceeds the
10 \$75,000 necessary for removal jurisdiction. Defendant Beazley opposes
11 Plaintiffs' Motion to Remand.
12

13 As set forth in its Motion to Dismiss, which is scheduled to be heard on
14 October 15, 2018, Defendant Beazley asserts this action should be dismissed
15 because there is no coverage for the *Cervantes* Lawsuit under the Beazley Policy.
16 Plaintiffs oppose Defendant Beazley's Motion to Dismiss, on procedural grounds
17 (as set forth in their Motion to Remand, this Court lacks subject-matter
18 jurisdiction) and on substantive (legal and factual) grounds.

19 h. Manual for Complex Litigation

20 The Parties do not believe this action would benefit from use of procedures
21 set forth in the MCL.

22 i. Status of Discovery

23 By mutual agreement, the Parties will exchange FRCP 26(a)(1) disclosures
24 on October 31, 2018. No other discovery has been conducted.

25 j. Discovery Plan

26 The Parties agree that discovery does not need to be conducted in phases,
27 and that no other applicable limitations need to be changed or imposed, and further
28 that no other orders are needed from the Court at this time. Beazley may request

the entry of a protective order to the extent confidential or proprietary information is sought in discovery.

k. Trial Date

The parties propose a trial date of November 4, 2019.

l. Fact Discovery Cut-Off

The parties propose a fact discovery cut-off of June 3, 2019.

m. Expert Discovery Cut-Off

The parties propose an expert discovery cut-off of August 5, 2019.

n. Dispositive Motions

Defendant Beazley has filed a Motion to Dismiss, which will be heard on October 15, 2018. If the action is not dismissed pursuant to that motion, Beazley anticipates filing a Motion for Summary Judgment.

o. Settlement

Statement pursuant to Local rule 16-15.4: The parties will agree to participate in ADR PROCEDURE NO. 3. ("The parties shall participate in a private dispute resolution proceeding.")

p. Trial Estimate

The Parties anticipate a trial length not exceeding five (5) days.

q. Trial Counsel

The Parties provide the following information regarding their trial counsel:

(1) Plaintiffs' Trial Counsel

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4 (2) Defendant Beazley's Trial Counsel

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14 r. Independent Expert or Master

15 The Parties believe at this juncture that this is not a case where the Court
16 should consider appointing a master pursuant to Rule 53 or an independent
17 scientific expert.

18 s. Other Issues

19 The Parties do not believe there are any other issues that will affect the
20 status or management of the case at this time.

21 t. Patent Cases

22 This is not a patent case.

23 u. Whether the Parties Wish to Have a Magistrate Judge Preside

24 The Parties decline to have a Magistrate Judge preside over the entire action.
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26
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ATTORNEYS FOR PLAINTIFFS

ATTORNEYS FOR DEFENDANT

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/s/ Terrence R. McInnis

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Date: September 19, 2018

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